

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.2052 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, ('the Code', for brevity), by the petitioner/Accused no.4, is directed against the order, dated 27.06.2017, of the learned I Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District, passed in CrI.M.P.No.596 of 2017 in C.C.No.484 of 2014. By the said orders, the learned Metropolitan Magistrate dismissed the application of the petitioner/Accused no.4 filed under Section 70(2) of the Code and refused to recall the Non Bailable Warrant issued against him, on 21.12.2016, in the afore-stated Calendar Case.

2. I have heard the submissions of Sri *G.L.Nageswar Rao*, learned counsel for the petitioner/Accused no.4, and of the learned Public Prosecutor for the State of Andhra Pradesh representing the sole respondent. I have perused the material record.

3. The petitioner is Accused no.4 in C.C.No.484 of 2014. He, along with the other accused, is facing trial for the offences punishable under Sections 403, 494, 420, 496, 497, 120-B, 500 of the Indian Penal Code, 1860, and Section 156(3) of the Code.

4. As per the submissions made and the facts borne out by the record, the petitioner/Accused no.4 attended before the trial Court on 17.11.2015 in the aforesaid Calendar Case; and he was informed that

he has to appear again before the trial Court after receipt of summons; however, no summons were ever served upon him; thereafter, a Non Bailable Warrant was issued against him on 21.12.2016; in fact, as no summons are served upon him, he had no knowledge that he has to appear before the trial Court on 21.12.2016; for that reason, he could not appear before the trial Court; in the said circumstances, there are no wilful laches on his part; hence, he filed the afore-stated miscellaneous petition, under Section 70(2) of the Code requesting to recall the Non Bailable Warrant issued against him; in the said application he gave valid reasons for his absence on 21.12.2016; but, the trial Court erroneously dismissed the said petition stating that the reasons assigned are not sufficient to recall the Non Bailable Warrant. Therefore, the petitioner/Accused no.4 is before this Court.

5. The learned Public Prosecutor, while supporting the orders of the trial Court, had stated that the petitioner filed the petition to recall the Non Bailable Warrant belatedly, that is, about six months after the Non Bailable Warrant was issued.

6. I have bestowed my attention to the facts and submissions.

7. Having regard to the facts and submissions, the explanation offered by the petitioner in his petition, the undertaking now given before this Court that he would appear before the trial Court on the next date of adjournment, that is, on 07.08.2017 & also on all future dates of hearing, without fail, and also the further submission that the

petitioner is a law abiding citizen, this Court is satisfied that this Criminal Revision Case can be disposed of by granting appropriate relief.

8. In the result, the Criminal Revision Case is allowed and the impugned order is set aside, subject to the condition that the petitioner/Accused no.4 shall appear before the trial Court in C.C.No.484 of 2014 on the file of the learned I Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District, on 07.08.2017, without fail. Till such time, the Non Bailable Warrant issued against the petitioner/Accused no.4 shall remain in abeyance. On the petitioner appearing before the Court below, on 07.08.2017, as directed supra, the Non-Bailable Warrant issued against the petitioner by the trial Court shall stand recalled. However, if the trial Court is so inclined, it may obtain fresh bonds from the petitioner/Accused no.4 for his regular and continuous appearance before it in the afore-stated Calendar Case on all future dates of adjournments/hearings. On failure of the petitioner to appear before the trial Court on 07.08.2017, the revision case shall stand dismissed and the order impugned in the revision shall stand revived.

Pending miscellaneous petitions, if any, shall stand closed.

M.Seetharama Murthi, J

21st July, 2017
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